

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

WHOLE WOMAN'S HEALTH
ALLIANCE, *et al.*,

Plaintiffs,

v.

FOOD AND DRUG ADMIN., *et al.*,

Defendants.

Case No. 3:23-cv-00019-RSB

JOINT STATUS REPORT

Pursuant to this Court's January 12, 2024 Order (ECF No. 54), the parties file this Joint Status Report in advance of the status conference scheduled for July 15, 2024 (ECF No. 55).

1. Defendants produced the administrative record to Plaintiffs on September 5, 2023. Following production of the administrative record, Defendants filed a certified index to the administrative record with the Court. ECF No. 46.

2. On January 12, 2024, the Court stayed this case pending the Supreme Court's resolution of *FDA v. Alliance for Hippocratic Medicine*, No. 23-235, and *Danco Laboratories, LLC v. Alliance for Hippocratic Medicine*, No. 23-236. ECF No. 55. The Supreme Court issued its opinion in those cases on June 13, 2024, holding that the respondents "lack[ed] Article III standing to challenge FDA's [2016 and 2021] actions" relating to mifepristone. *See FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367, 372

(2024). That case has been remanded for “further proceedings consistent” with the Supreme Court’s decision. *Id.* at 397. The parties in that case, including the three States that have intervened (Missouri, Kansas, and Idaho), have not yet indicated what further proceedings, if any, should occur.

3. The parties jointly request that this Court set the following schedule for briefing cross-motions for summary judgment:

- a. Plaintiffs will file their motion for summary judgment no later than October 23, 2024;
- b. Defendants will file their combined cross-motion for summary judgment and opposition to Plaintiffs’ motion for summary judgment no later than December 18, 2024;
- c. Plaintiffs will file their combined reply in support of their motion for summary judgment and opposition to Defendants’ motion for summary judgment no later than February 4, 2025;
- d. Defendants will file their reply in support of their motion for summary judgment no later than March 18, 2025;
- e. The parties shall jointly prepare, and plaintiffs shall file, a joint appendix containing portions of the administrative record cited in the parties’ briefs no later than April 1, 2025;
- f. Following the completion of briefing, the parties will advise the Court of their availability for oral argument.

July 12, 2024

/s/ Rabia Muqaddam (with permission)

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Respectfully submitted,

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Certificate of Service

I certify that the foregoing was served on all counsel of record via ECF on July 12, 2024.

/s/ Noah T. Katzen
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